

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BRUCE MILLS	)	APPEAL NO. 06-A-2056
from the decision of the Board of Equalization of	)	<b>AMENDED<sup>1</sup></b> FINAL
Fremont County for tax year 2006.	)	DECISION AND ORDER

**IMPROVED PROPERTY APPEAL**

THIS MATTER came on for hearing September 12, 2006, in St. Anthony, Idaho, before Presiding Officer David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant Bruce Mills appeared for himself. Assessor Ivel Burrell and Appraisers Mike Jones and Kent Lords appeared for Respondent Fremont County. This appeal is taken from a decision of the Fremont County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP000630000140A.

**The issue on appeal is the market value of an improved parcel.**

**The decision of the Fremont County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$119,420, and the improvements' valuation is \$18,630, totaling \$138,050. Appellant requests the land value be reduced to \$47,880, and the improvements' value be reduced to \$13,840, totaling \$61,720.

The subject property, Lot 14, is 2.83 acres with an improvement located in Fremont County.

LAND VALUATION:

Appellant argued subject property was assessed erroneously and in a prejudicially discriminative manner. Appellant testified one issue of this appeal is about subject being incorrectly identified as "water influenced property".

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<sup>1</sup>This amended decision corrects a typographical error on page 5.

According to Appellant subject was not assessed fairly but was assessed higher than other similar properties. Appellant discussed in detail, information regarding the assessments and features of neighboring property (comparables). Some of the comparisons and issues follow:

1. Subject has been incorrectly identified as “water influenced property”. The definition of “water influenced property” was defined to him by staff of the County Assessor’s office as “Land which has enhanced value over adjacent land because of river or water view scenery”. It was alleged subject has “no river view”, and a video tape was submitted in this regard. It was also stated the property slopes steeply away into swamp. Appellant also submitted photographs to depict subject’s view;
2. Appellant did not think the County classified subject and neighboring properties correctly;
3. “Lots 1-11 have unobstructed 180 degree views of the Snake River, with firm dry ground right up to the river’s edge.” Appellant maintains Lots 1-11 have assessed values ranging from \$80,000 to \$96,000 for river view properties;
4. “Lots 12 and 13 have a partial view of the river.” Appellant maintains Lots 12,13, and 14 have assessed values ranging from \$70,000 to \$120,000 for partial river views;
5. “Lots 14-24 are interior without any view of the river.” Appellant maintains that land values for Lots 15-24 have assessed values around \$20,000; and
6. “Lot 14 (SUBJECT) cannot fairly be considered as “water influenced”, and that nearly 34% of the total lot area cannot be mowed or even traversed without waders.”

Appellant charged Lot 14 should have an assessed value consistent with an interior lot, such as Lots 15-24.

Respondent stated that “water influence” properties sell at a different rate based on the proximity to water, access to the water, and use of the property. All the lots in subject’s subdivision are residential. Based on Lot 14’s location, water borders the property, which affects the value.

Photographs of subject were submitted to demonstrate the river view and that subject

does border water. An aerial photo graph was also presented in the same regard.

A plat map was submitted showing the location of bare land sales in relation to subject. There were two sales in 2004. Lot 9, 1.4 acres sold for \$135,000. Lot 5, 1.77 acres, sold for 95,000. Subject is 2.83 acres. Respondent agreed the sales did not have the same river view as subject and Lots 12, and 13. Consideration was given in the assessed value for a sloped lot versus a flat lot and to account for channel frontage rather than Snake River frontage. An island is located in front of Lots 12, 13, and 14 and the channel runs around the island. A minus 25% reduction was made to subject to account for these factors.

Respondent maintained that West Chester Subdivision is water influenced property in close proximity and it was used as comparable to subject subdivision. A 2.28 acre lot sold for \$140,000 in October, 2005 in West Chester Subdivision.

#### IMPROVEMENT VALUATION:

Appellant stated that the improvement valuation is incorrect. The structure is a garage and maintained the County has incorrectly assessed subject as a “residential structure”. It was testified that the garage has no amenities, no kitchen, no bathroom, and no plumbing. Appellant reports it cost \$6,788.93 for material and labor to build the structure in 1992.

Appellant argued a septic system and a private well on subject are not yet connected and therefore should not be assessed.

The well and septic issues were discussed by Respondent. It was stated a well had been drilled but was not yet hooked up, and a septic system had been put in but not connected to the pipes. Since a majority of effort associated with those amenities has been completed, the value of \$6,000 was added to the land value. Since those amenities stay with the land, they were included in the land value.

Respondent reported the 860 square foot detached garage was assessed as a garage, not a residence. It was noted the structure was partially finished in the attic. The garage has an assessed value of \$17,290. The 143 square foot, 11x13 utility shed had an assessed value of \$1,340.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code Section 63-208. Rules pertaining to market value – Duty of Assessor. Rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes.

Idaho Code Section 63-201(10) defines market value:

“Market Value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Idaho Code § 63-314(1) provides the Assessor with direction on how to appraise property. Subsection (5) directs, the process should include "a field inspection of not less than the number of taxable properties necessary to meet the requirements of subsection (1). Appraisal also includes collection, verification and analysis of market value sales, applicable income and expense data and building cost information, and application of this information to predict market value."

The Board appreciates Taxpayer's well prepared case. A large volume of information was

presented in order to demonstrate what Appellant concluded were assessment errors in the assessed value of subject. A great deal of research was completed.

Taxpayer went to great lengths to prove subject is not “water influenced”. There was a great deal of care in comparing subject and the assessed values of other properties. However, Appellant offered no alternative sales, appraisals, or other current market information to support the value claim.

Respondent submitted vacant land sales to support the 2006 assessed value. The Board finds that the assessed value of subject does not exceed market value, and the assessed value has not been demonstrated to be in error. Subject is not main river frontage. The County treatment as “water influenced” is not unreasonable.

Idaho Code §63-511(4). Appeals from county board of equalization.

In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. *A preponderance of the evidence shall suffice to sustain the burden of proof.* The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The board of tax appeals or the district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The board of tax appeals or the court may affirm, reverse, modify or remand any order of the board of equalization, and shall grant other relief, invoke such other remedies, and issue such orders in accordance with its decision, as appropriate. *(Emphasis added.)*

The Appellant did not prove by a preponderance of evidence that the relief claimed was warranted. Therefore, this Board will affirm the decision of the Fremont County Board of Equalization.

## FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Fremont County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 22<sup>nd</sup> day of March, 2007.